

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



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Application of Pacific Gas and Electric  
Company for Compliance Review of Utility  
Owned Generation Operations, Electric Energy  
Resource Recovery Account Entries, Contract  
Administration, Economic Dispatch of Electric  
Resources, Utility Retained Generation Fuel  
Procurement, and Other Activities for the  
Period January 1 through December 31, 2012.

Application 13-02-023  
(Filed February 28, 2013)

**OPENING COMMENTS  
OF THE OFFICE OF RATEPAYER ADVOCATES**

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## I. INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure (Rules), the Office of Ratepayer Advocates (ORA) hereby submits these opening comments on the Administrative Law Judge's *Proposed Decision on Pacific Gas and Electric Company 2012 Energy Resource Recovery Account Compliance Review*, issued March 4, 2016.

## II. DISCUSSION

ORA strongly supports the Proposed Decision (PD) and does not recommend any changes. The PD is factually and legally sound in its discussion of Standard of Conduct 4 (SOC 4), the "reasonable manager" standard, and the "prudent management" standard. The PD appropriately takes into account these standards of review in finding that PG&E did not meet the "reasonable manager" standard in managing two of its utility-owned generation (UOG) facilities and did not meet the "prudent management" standard in administering three of its qualifying facilities (QF) contracts.<sup>1</sup> Furthermore, the PD appropriately rejects Pacific Gas and Electric's (PG&E) argument that the overall performance of PG&E's UOG portfolio should be part of the analysis of whether PG&E acted as a reasonable manager.

### A. **The PD correctly concludes that overall portfolio performance cannot replace the reasonable manager standard.**

PG&E argued that, despite ORA's recommended disallowance related to the outage at the Belden powerhouse hydroelectric facility, the outage should be mitigated by PG&E's overall positive portfolio performance. PG&E asserted that the 2008-2012 performance of its hydro portfolio was better than industry benchmarks.<sup>2</sup> ORA disagrees

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<sup>1</sup> As the PD correctly points out, the "reasonable manager" and "prudent management" standards are the same [see PD, p. 12].

<sup>2</sup> PG&E Opening Brief, p. 30.

and commends the PD's rejection of PG&E's argument. Under the "reasonable manager" standard:

[U]tilities are held to a standard of reasonableness based upon the facts that are known or should have been known at the time. The act of the utility should comport with what a reasonable manager of sufficient education, training, experience, and skills using the tools and knowledge at his or her disposal would do when faced with a need to make a decision and act.<sup>3</sup>

The PD properly interprets the "reasonable manager" standard and its language, as stated above, by concluding that "[t]here is nothing in the plain language of the reasonable manager standard that supports PG&E's assertion... The reasonable manager standard applies in the context of specific plant outages, not with respect to annual or multi-year statistics regarding the overall performance of PG&E's portfolio of utility-owned generating facilities."<sup>4</sup>

**B. PG&E did not meet the "prudent management" standard in administering three of its qualifying facilities.**

The Commission determined that pursuant to SOC 4, the utilities "shall prudently administer all contract and generating resources and dispatch the energy in least cost-manner<sup>5</sup>" to mitigate ratepayer impact by "operating their resources in a manner that produces the lowest possible cost for customers."<sup>6</sup> The PD appropriately explains that:

[T]he administration of contracts during a Record Period is reviewed to determine if the contracts were prudently administered and managed in compliance with the contract provisions. Here,

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<sup>3</sup> See D.09-09-088, 37 CPUC2d 488, 499.

<sup>4</sup> *Proposed Decision on Pacific Gas and Electric Company 2012 2012 Energy Resource Recovery Account Compliance Review* in A. 13-02-023, filed March 4, 2016, p. 25.

<sup>5</sup> D.05-01-054, p. 13.

<sup>6</sup> D.05-01-054, pp. 13-14.

“prudent management” is the same as the “reasonable manager” standard previously adopted by the Commission.<sup>7</sup>

In testimony and briefs, ORA extensively argued that:

1. PG&E failed to prudently administer the QF contract with the University of California, San Francisco (UCSF) by failing to abide by the terms negotiated under “totalization agreement.” As a result, PG&E’s payments for net energy usage were underestimated<sup>8</sup> by a significant amount. However, because there was no adverse ratepayer impact due to a true-up payment from PG&E to UCSF, and no interest was charged, ORA did not recommend a disallowance on this contract.
2. PG&E failed to prudently administer the Amedee Geothermal Venture 1 (Amedee) and the Wendel Energy Operations 1, LLC (Wendel) contracts. The payments to these contracts were affected by a change to the voltage on the transmission line, which PG&E did not take into account by properly adjusting the “meter constant.” The failure of PG&E to prudently administer the two contracts created an adverse ratepayer impact because PG&E could not recover the full amount it overpaid to these two facilities. Therefore, ORA recommended a total disallowance of \$126,171.

ORA agrees with the PD that it is appropriate to impose a disallowance to PG&E consisting of the difference between the overpaid amount by PG&E and the monies recovered from the two QFs via the letter agreements. Despite being notified by Lassen Municipal Utilities District of a downgrade in the line’s voltage, PG&E failed to make an adjustment to the meter constant. For almost three years, PG&E overpaid Amedee and Wendel with ratepayer funds. The fact that PG&E claimed that it could not recover the whole overpaid amount from the two QFs should not absolve the utility from complying with the SOC 4. PG&E must ensure that its contracted resources are operated in a

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<sup>7</sup> Proposed Decision, p. 12.

<sup>8</sup> ORA Testimony, Exhibit ORA-1, pp. 4-3.

manner that produces the lowest possible cost for customers. In that respect, ORA agrees with the PD conclusion that:

PG&E has essentially reached two deals to forego pursuit of ratepayer funds from two entities that received those funds and now seeks Commission approval of the resulting agreements. That approval would absolve PG&E for any responsibility for a financial loss of its own creation. We find that a reasonable manager would have ensured that the change in transmission voltage was promptly reflected in accurate meter constant at each facility and would take responsibility for this error and either pursue recovery or assume responsibility for the loss, rather than try to collect those funds from a party that had nothing to do with the transactions or the settlement.<sup>2</sup>

ORA finds that the PD correctly relies on SOC 4 and “prudent management” standards and does not recommend any changes to the PD with respect to PG&E’s contract administration.

**C. PG&E did not meet the “reasonable manager” standard in managing two of its UOG facilities.**

The Commission has previously determined that pursuant to the “reasonable manager” standard, “the utility should comport with what a reasonable manager of sufficient education, training, experience, and skills using the tools and knowledge at his or her disposal would do when faced with a need to make a decision and act.”<sup>10</sup> ORA relied on the Commission’s determination of the “reasonable manager” standard in its analysis of PG&E’s forced outages at Diablo Canyon Power Plant (DCPP) facility and Belden Powerhouse.

ORA’s testimony explained why PG&E failed to meet the reasonable manager standard with respect to two forced outages at Diablo Canyon Power Plant and Belden

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<sup>2</sup> Proposed Decision, p. 75.

<sup>10</sup> See D.09-09-088, 37 CPUC2d 488, 499.

Powerhouse. Regarding the forced outage at Belden Powerhouse, ORA maintained that PG&E failed to show that it acted as a reasonable manager because it:

1. Failed to test or visually inspect the bearing low level alarm that was the only alarm remaining in place to alert PG&E to a potential oil spill.
2. Failed to provide written instructions to powerhouse personnel detailing which equipment they should test/inspect to safeguard against potential oil spill or leak.
3. Placed the pressure gauge on a pump casing, even though it should have been reasonable to conclude that pumps vibrate in the course of their normal operations, and that the added gauge weight in a high-vibration region would increase the risk of cyclic stresses that could cause fatigue failure.
4. Failed to take into account OSPP [Oil Spill Prevention Program] skid design before determining the appropriate place where to install the pressure gauge.
5. Failed to ensure that the final installed schematics of the gauges would not deviate from the original design.<sup>11</sup>

Subsequently, ORA proposed a disallowance for the Belden Powerhouse outage of \$1,968,220.

Regarding the forced outage and Diablo Canyon Power Plant (DCPP) facility, in its testimony, ORA argued that PG&E failed to show it acted as a reasonable manager would have acted at the time decisions were made because PG&E:

1. Failed to consult IEEE [Institute of Electrical and Electronics Engineers] and IEC [International Electrotechnical Commission] standards on the appropriate creepage distance for heavy environmental contamination area where DCPP was located.

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<sup>11</sup> ORA Testimony, Exhibit ORA-1, pp. 2-18 and pp. 2-20.

2. Failed to adhere to sound engineering principles by not verifying and validating the assumptions that were made about the capability of silicone polymer insulators.
3. Failed to correctly estimate the contamination levels due to the environment through the use of an inadequate “mental model” which relied on weather patterns rather than scientifically measuring the Equivalent Salt Deposit Density.<sup>12</sup>

Subsequently, ORA proposed a disallowance for the DCPD facility forced outage of \$3,238,185. To support its analysis and testimony, ORA provided the Commission with PG&E’s Root Cause Analyses (RCA) report for Belden Powerhouse and Root Cause Evaluation (RCE) report for DCPD performed by the utility. The PD correctly notes that “the utility’s actions and identified root causes must be evaluated in conjunction with the ‘reasonable manager’ standard in determining whether the outage is reasonable or unreasonable and whether a disallowance based upon power replacement costs is warranted.”<sup>13</sup>

In discussing the Belden Powerhouse forced outage, the PD concludes that:

PG&E has not provided a convincing rebuttal to ORA; nor has PG&E explained why its own RCA offers conclusions and corrective recommendations that are consistent with ORA’s analysis...[W]e conclude that the evidence supports ORA’s position that PG&E failed to show that it acted as a reasonable manager would have acted with respect to its actions *prior* (emphasis added) to the forced outage at the Belden powerhouse.

Ratepayers should not pay for the associated cost of replacement power.<sup>14</sup> Therefore, ORA supports the PD’s conclusions and legal analysis along with the \$1,324,811 disallowance for the forced outage at Belden Powerhouse.

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<sup>12</sup> *Id.*, pp. 2-22.

<sup>13</sup> Proposed Decision, pp. 23-24.

<sup>14</sup> Proposed Decision, pp. 31-32.

Similarly, the PD appropriately evaluated the facts and events that were known or should have been known by a reasonable manager when referring to DCP's RCE<sup>15</sup> in conjunction with the "reasonable manager standard. The PD appropriately disagreed with PG&E's rebuttal:

[I]n large part because PG&E's root cause evaluation of the DCP outage does not support PG&E's assertion that its managerial decisions were reasonable given the circumstances and the facts available to PG&E prior to the outage. Specifically, we demonstrate that each of PG&E's substantive rebuttals to ORA is contradicted by facts contained in the root cause evaluation. For this reason, we find that the evidence supports our conclusion that PG&E did not comply with the reasonable manager standard.<sup>16</sup>

Therefore, ORA supports the PD's conclusions and legal analysis along with the \$3,238,185 disallowance for the forced outage at Diablo Canyon Power Plant.

### **III. CONCLUSION**

ORA strongly supports the Proposed Decision and does not recommend any changes. The PD is factually and legally sound with respect to:

- Appropriately rejecting PG&E's argument that the overall performance of PG&E's UOG portfolio should be a part of the analysis of whether PG&E acted as a reasonable manager of its resources.
- Appropriately taking into account the Commission's standards of review regarding contract administration and UOG forced outages.
- Appropriately evaluating whether PG&E met a "reasonable manager" standard in conjunction with the Root Cause Analysis and the Root Cause Evaluation.
- Concluding that PG&E did not meet the "prudent management" standard in administering three of its qualifying facilities contracts and disallowing \$126,171.

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<sup>15</sup> Proposed Decision, pp. 51-56.

<sup>16</sup> Proposed Decision, p. 50.



- Concluding that PG&E did not meet the “reasonable manager” standard in managing the Belden Powerhouse and Diablo Canyon Power Plant and disallowing \$1,324,811 and \$3,238,185.

Respectfully submitted,

/s/ Zhen Zhang

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